UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JDGLOBAL, LLC,

Plaintiff, Case No._____________________

vs. Honorable___________________

TECHNICAL MOLDING MANAGEMENT SYSTEMS, INC., Magistrate Judge ________________

Defendant.

Randall J. Gillary (P 29905)
Kevin P. Albus (P 53668)
RANDALL J. GILLARY, P.C.
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COMPLAINT FOR SALES COMMISSIONS

NOW COMES Plaintiff, JDGLOBAL, LLC, by and through its attorneys, RANDALL J. GILLARY, P.C., who complains against Defendant, TECHNICAL MOLDING MANAGEMENT SYSTEMS, INC., as follows:

JURISDICTIONAL ALLEGATIONS

1. Plaintiff, JDGLOBAL, LLC, ("Plaintiff") is a Michigan limited liability company. All members of Plaintiff are individuals who are citizens of

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Michigan. Plaintiff is an independent sales representative firm in the automotive industry.

2. Defendant, TECHNICAL MOLDING MANAGEMENT SYSTEMS, INC., ("Defendant"), is a corporation incorporated under the laws of the Province of Ontario, Canada with its principal place of business located in Tecumseh, Ontario, Canada. Defendant is a manufacturer of tooling and molds used in the manufacture of automotive parts.

3. Defendant conducts business in the Eastern District of Michigan.

4. The amount in controversy exceeds $75,000, exclusive of costs, interest, and attorney fees.

COUNT I – BREACH OF CONTRACT TO PAY SALES COMMISSIONS

5. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 4 as if the same were fully set forth herein.

6. In approximately 2010, Plaintiff and Defendant entered into an express and/or implied sales representation agreement wherein and whereby Plaintiff would be an independent sales representative for Defendant, soliciting and procuring orders for the sale of Defendant's tooling products. In exchange, Defendant promised and agreed to pay sales commissions to Plaintiff at the rate of 10% for all sales made by Defendant as a result of orders solicited and procured by Plaintiff.

7. Defendant paid the agreed upon sales commissions for several years but ultimately became delinquent in the payment of the sales commissions to Plaintiff. Emails setting discussing the delinquency and the amount due are attached hereto as Exhibit 1. On or about February 3, 2022, Plaintiff, by and through its managing member Jennifer Donovan, terminated the express and/or implied sales representation agreement, effective immediately, for non-payment of earned sales commissions. At the same time, Plaintiff sent to Defendant an invoice dated February 2, 2022, in the amount of $41,248.59, a copy of which is attached hereto as Exhibit 2. The invoice remains unpaid.

8. Defendant has breached the express and/or implied sales representation agreement by failing, refusing, or otherwise neglecting to pay the outstanding balance of $41,248.59.

9. As a direct and proximate result of Defendant's breach of the express and/or implied sales representation agreement, Plaintiff has been damaged in an amount in exceeding $75,000, exclusive of costs, interest, and attorney fees.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in any amount in excess of $75,000 to which it is found to be entitled, together with costs, interest, and attorney fees so wrongfully incurred.

COUNT II – ACCOUNT STATED

10. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 9 as if the same were fully set forth herein.

11. Plaintiff performed sales representation services to Defendant upon open account and upon the express and/or implied promise of Defendant to pay for the services rendered.

12. Through a series of emails exchanged between Plaintiff in Defendant from June 2021 through August 2021, an account was stated with a balance of $69,248.59 owed by Defendant to Plaintiff. See Exhibit 1.

13. Defendant made additional payments to Plaintiff thereafter, but as of February 2, 2022, a balance of $41,248.59 remained due from Defendant to Plaintiff, as reflected in the invoice attached hereto as Exhibit 2, which Plaintiff sent to Defendant by email on February 3, 2022.

14. Defendant has never disputed that it owes the above-stated sum to Plaintiff, and Defendant has never disputed the amount owed.

15. Payment has been demanded of Defendant by Plaintiff, but Defendant refused and still refuses to the amount due.

16. Plaintiff is the owner of the account and the sum of $41,248.59 is due Plaintiff.

17. An affidavit supporting the account stated is attached hereto as Exhibit 3. See Mich. Comp. Laws § 600.2145.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in any amount in excess of $75,000 to which it is entitled together with costs, interest and attorney fees so wrongfully incurred.

COUNT III – VIOLATION OF MICHIGAN SALES REPRESENTATIVE COMMISSION ACT

18. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 17 as if the same were fully set forth herein.

19. Defendant is a "principal" as defined by the Michigan Sales Representative Commission Act ("SRCA"), Mich Comp Laws § 600.2961, because Defendant sells or distributes products in Michigan and Defendant contracted with Plaintiff to solicit orders for or sell products in Michigan.

20. Plaintiff is a "sales representative" as defined by the SRCA because Plaintiff contracted with Defendant for the solicitation of orders or sale of goods and was paid, in whole or in part, by commission.

21. Defendant has intentionally failed to pay sales commissions to Plaintiff within the time limits prescribed by the SRCA.

22. As a result of Defendant's intentional failure to pay sales commissions to Plaintiff within the time limits prescribed by the SRCA,

Defendant is liable not only for the overdue commissions but also for penalty damages equal to two times the overdue commissions, not to exceed $100,000.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in any amount exceeding $75,000 to which it is found to be entitled, including penalty damages and reasonable attorney fees and courts under the SRCA.

Respectfully submitted,

s/Randall J. Gillary
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Date: April 8, 2022